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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,411	08/13/2001	Ian Hendry	P2232C-773	7456

7590

09/08/2004

James W. Peterson, Esquire  
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Alexandria, VA 22313-1404

EXAMINER
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DU, THUAN N

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 09/08/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/927,411

Applicant(s)

HENDRY ET AL.

Examiner

Thuan N. Du

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-97 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22,36,43,64,78,85,88,90,92,94 and 96 is/are rejected.
- 7) ☒ Claim(s) 23-35,37-42,44-63,65-77,79-84,86,87,89,91,93,95 and 97 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. It is hereby acknowledged that the following papers have been received and placed of record in the file: Request for Reconsideration (dated 6/15/04).
2. Claims 22-97 are presented for examination.

#### *Double Patenting*

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 22, 36, 43, 64, 78, 85, 88, 90, 92, 94 and 96 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2, 3, 10 and 17 U.S. Patent No. 6,282,646 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because both systems operate in the same manner.
5. For illustration purpose, claim 22 of the instant application and claim 2 of the 6,282,646 B1 Patent has been analyzed as follow:

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Claims 1 and 2 of Patent No. 6,282,646 B1	Claim 22 of Instant Application 09/927,411
1. A method for reconfiguring a computer system to accommodate changes in a display environment, comprising the steps of:	22. A method for reconfiguring a computer system to accommodate changes in a display environment, comprising the steps of:
detecting the addition or removal of an input/output device in the computer system (see claim 2 below);	receiving an indication of an addition of an input/output device to <u>a frame buffer</u> associated with the computer system;
determining whether an input/output device which has been added or removed is a video device, in response to said detection;	determining, in response to the indication, whether the input/output device that has been added is a display device;
providing a notification to a display manager when a determination is made that a video device has been added or removed (see claim 2 below); and	providing a notification to a display manager of the addition of the input/output device to <u>the frame buffer</u> associated with the computer system, when the input/output device is determined to be an added display device; and
modifying the allocation of display space to display devices via said display manager, in accordance with the addition or removal of a video device (see claim 2 below).	associating, by the display manager, <u>the frame buffer</u> associated with the computer system with the added display device.
2. The method of claim 1 wherein the video device comprises a video card that includes <u>a frame buffer</u> , and said modification step includes assigning a portion of the display space to the frame buffer of an added video card, or deleting the assignment of a portion of the display space to a removed video card.	

Even though the word “detecting” recited in the 6,282,646 B1 patent is not identical with the word “receiving” recited in the instant application 09/927,411, the “detecting” is a broader term than “receiving.” In order for a detecting circuit to detect an addition of an input/output device in the computer system, the detecting circuit has to receive a signal to indicate or an indication that there is a device (an input/output device) added to the system.

Also, even though the word “modifying” recited in the 6,282,646 B1 patent is not identical with the word “associating” recited in the instant application 09/927,411, the “modifying” is a broader term than “associating.” In order for the display manager to modify the allocation of display space to display devices in accordance with the addition of a video device that includes a frame buffer, in one way, the display manager has to associate the frame buffer associated with the computer with the added device.

Therefore, it is clear that claim 22 of the instant application 09/927,411 is merely an obvious variation of claim 2 of the 6,282,646 B1 patent. While claim 2 of the 6,282,646 B1 patent is slightly broader than claim 22 of the instant application 09/927,411, these differences are not enough to distinguish the two claims. The language of the instant application 09/927,411 not only fails to distinguish it from the 6,282,646 B1 patent, but indicate that it is merely a subset of 6,282,646 B1 patent. These differences are not sufficient to render the claims patentably distinct, and therefore, claim 22 of the instant application 09/927,411 is invalid.

6. One could apply the same analysis above to show the similarities between claims 36, 43, 64, 78, 85, 88, 90, 92, 94 and 96 of the instant application with 2, 3, 10 and 17 of U.S. Patent No. 6,282,646 B1.

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7. The remaining claims are objected to as being dependent upon a rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is 703-308-6292 (after 10/14/04, 571-272-3673). The examiner can normally be reached on Monday-Friday: 9:00 AM - 5:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703) 308-1159 (after 10/14/04, 571-272-3670).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

The fax number for the organization is (703) 872-9306.

  
LYNNE H. BROWNE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER ~~3600~~ 2100

Thuan N. Du  
September 1, 2004